

<p>IN RE:</p> <p>U.S. CELLULAR CORP. AND ILLUMINET, INC.,</p> <p>Complainants,</p> <p>v.</p> <p>QWEST CORPORATION,</p> <p>Respondent.</p>	<p>DOCKET NO. FCU-02-13</p>
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(Issued August 9, 2002)

On July 5, 2002, U.S. Cellular Corp. (USCC) and Illuminet, Inc. (Illuminet), (collectively, Complainants) filed a "Complaint And Request For Immediate Relief" pursuant to Iowa Code §§ 476.3 and 476.101(8) and 199 IAC 6. Complainants allege that Qwest Corporation (Qwest) is unlawfully imposing charges on Illuminet for Signaling System 7 (SS7) services. Complainants request immediate relief in the form of an immediate injunction against any action by Qwest to terminate, or threaten to terminate, signaling service to Complainants pending final resolution of this complaint on the merits. Complainants also request a determination that Qwest's tariffed rates for signaling services are unlawful as applied to Complainants and an

order directing that Qwest refund any monies paid to Qwest by Complainants for the traffic that is the subject of this complaint.

On July 17, 2002, Qwest filed an answer, denying that immediate relief is appropriate and arguing that Illuminet should not be permitted to continue to receive services without paying for them. Qwest asks that if the Board entertains the requested stay, the parties should be required to fully brief the issues and to offer testimony and other evidence in support of their positions. Finally, Qwest asks that the Board dismiss the complaint and advise Illuminet that Qwest may terminate services to Illuminet unless all billed amounts are paid in full.

On August 5, 2002, Complainants filed a response to Qwest's answer, arguing that immediate relief is appropriate and, in the alternative, that if a preliminary injunction hearing is required, it should be held on an expedited schedule.

Iowa Code § 476.101(8) provides, in relevant part, that when the Board initiates formal complaint proceedings in response to a written complaint regarding a local exchange carrier's compliance with sections 476.96 through 476.102, "[t]he board shall render a decision in the proceeding within 90 days after the date the written complaint was filed." Thus, the deadline for Board action in this docket is October 3, 2002, and the Board is docketing this matter and establishing a procedural schedule that will satisfy that requirement.

Because this matter is being conducted on an accelerated basis, the Board finds it would be an inefficient use of resources to schedule a hearing on the motion for immediate relief. Instead, the Board will order the parties to maintain the status

quo while this matter is pending and to direct their efforts to bringing this matter to a conclusion at the earliest possible date.

The Board also finds that the limited time available for this proceeding means that the 14-day period for responding to motions, set forth in 199 IAC 7.7(11), and the seven-day period for responding to data requests, See 199 IAC 7.7(2), are impractical in this proceeding. The Board will order that responses or objections to all motions and data requests must be filed or provided within five days of the date the motion is filed or the data request is served. In order to accommodate that abbreviated time frame, parties are directed to serve all motions and data requests by facsimile transfer or electronic mail, as well as by United States mail, on or before the date of filing.

Finally, on July 9, 2002, Complainants filed a motion for admission pro hac vice, requesting admission of Thomas J. Moorman as counsel for Illuminet in this action, while on July 18, 2002, Qwest filed a similar motion requesting admission of Stephanie L. Boyett-Colgan as counsel for Qwest in this matter. No objection or other resistance to either motion has been filed and they will be granted.

IT IS THEREFORE ORDERED:

1. The complaint filed on July 5, 2002, by U.S. Cellular Corp. and Illuminet, Inc., against Qwest Corporation is docketed for investigation as Docket No. FCU-02-13.
2. The following procedural schedule is established for this proceeding:

a. Complainants shall file prepared direct testimony, with supporting exhibits and workpapers, on or before August 19, 2002.

b. Qwest shall file any rebuttal testimony, with supporting exhibits and workpapers, on or before September 4, 2002.

c. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 9 a.m. on September 18, 2002, in the Board's hearing room at 350 East Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made. The Board has allotted one day for this hearing.

d. Any party desiring to file a brief may do so on or before September 23, 2002.

3. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

4. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination, which have not previously been filed with the Board, shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.

5. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of hearing.

6. Pursuant to 199 IAC 7.7(2) and (11), the time for filing responses or objections to data requests and motions will be shortened to five days from the date the motion is filed or the data request is served. All data requests and motions should be served by facsimile transfer or by electronic mail, in addition to United States mail.

7. The motion for admission pro hac vice filed on July 9, 2002, by Complainants is granted.

8. The motion for admission pro hac vice filed on July 18, 2002, by Qwest is granted.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9th day of August, 2002.